2026 Mid-Term Election Analysis

The New Balance of Power:

Navigating Washington After the 2026 Midterms



SQUIRE PATTON BOGGS

Local Connections. Global Influence.

Shared Governance and Divided Control of Washington

Author: David Schnittger

Divided government is returning to Washington DC. The Republican surge of 2024 that yielded two years of GOP dominance over the levers of federal power in the US has been erased and replaced by shared authority between the two parties, setting the stage for a 120th Congress marked by investigations and partisan confrontation. In the last two years of his second term, President Donald Trump will face dramatic new constraints on his ability to advance a legislative agenda and secure the approval of his nominees for key posts, and an even greater reliance on executive authority. He will also encounter a new adversary in Rep. Hakeem Jeffries (D-NY), who is poised to become the leader of the Democratic opposition in Washington DC and the first African American to wield the speaker's gavel in the US House of Representatives. The new division of power in Washington DC will provide the backdrop for the run up to the 2028 US presidential contest as the American electorate evaluates its options for a post-Trump political future.

Democrats seized majorities in both chambers of the US Congress, wiping out GOP incumbents and open-seat candidates in races up and down the board. Energized by the opportunity to defy President Trump one last time at the polls, Democrats turned out to vote in large numbers. But it was independent voters who turned an otherwise bad day for the GOP into an electoral annihilation, shattering the coalition that had put Republicans in power two years earlier. The economy was the dominant issue as they voted decisively against Republicans to register their frustration over ongoing inflation and tariffs seen by many as hurting America.

The reformulation of Washington DC's power structure will have enormous implications for the direction of domestic policy across the issue spectrum in 2027 and 2028. Democrats will seize on American families' concerns about affordability, crafting a legislative agenda designed to reverse the course set by President Trump over the past two years and frame the choice US voters will face when they return to the polls in November 2028 to choose a new president. Concurrently, they will use their newfound majority power to conduct sweeping investigations of President Trump, his family, his deals and the impact of his policies, further fueling a toxic atmosphere on Capitol Hill that might leave little oxygen for bipartisan negotiation and collaboration. At the same time, however, policymakers on both sides of the aisle will be forced to seek common ground on at least a handful of matters that constitute the basic responsibilities of governing in Washington DC, including funding the military and all functions of the federal government. The debt limit also looms, as the new-look Congress and President Trump will have to find agreement on a way to address the expiration of the nation's debt authority at some point during the coming year.



With their majorities in the House and Senate gone, President Trump and his party will lose their ability to use the special rules of the budget reconciliation process to advance their agenda. The president and the Democratic leaders of Congress will have to negotiate in order to keep the government running and avoid a default on the nation's debt, significantly altering the political calculus in Washington DC as 2027 unfolds. Democrats will use their majorities to churn out legislation and put bills on President Trump's desk that the president will have to either sign or veto, each time with high political stakes. The president, for his part, will rely more than ever on his ability to use executive authority to run the federal government with or without the support of Congress. House Republicans, previously the chief legislative engine for President Trump's policy agenda, will retreat into deep minority mode, their leadership's focus shifting from governing and advancing legislation to throwing roadblocks in the path of incoming Speaker Jeffries and his new majority legislatively, procedurally and politically. Leadership changes to reflect the shift and put the House Republican Conference on a new footing for the new Congress will be determined in the coming days as the outgoing majority grapples with unfinished business from the current Congress, including a bipartisan energy permitting reform bill and extending government funding that expires on December 11, during the post-election "lame-duck" session.

> “Companies should start preparing now, because the wave of upcoming oversight is going to be unlike anything we have ever seen.”
>
> **Giancarlo Pellegrini**, Chair, Congressional Investigations Practice | Former Senior Counsel to House Oversight Ranking Member Robert Garcia (D-CA)

A blizzard of congressional oversight activity and Democratic legislation is about to hit the nation’s capital. It will be met by frequent use of the veto pen and executive action by a president more determined than ever to push the boundaries of his constitutional authority. But even in a Washington DC gripped by hyper partisanship and sprawling investigations, glimmers of opportunity will emerge for impacting policy and regulation on a lasting basis. The ability to identify these opportunities, craft strategies to capitalize on them and execute those strategies will become a greater necessity than ever for stakeholders pursuing objectives involving the federal government.

This report, prepared by our bipartisan Public Policy team, examines the outlook for 2027 and beyond in five key areas as they project to be shaped and impacted by the new realities of governing in Washington DC:

- Oversight
- Affordability
- Trade and investment
- Energy and natural resources
- Artificial intelligence and technology

Over the Horizon: A 2027 Fiscal Deal Will Reward the Prepared

Author: David Stewart

As Washington DC takes stock of the midterm elections, it is worth keeping in mind another window that may open for big fiscal deal-making. The table is set with a pending debt limit, a clearly divided government and a president who relishes the art of the deal. The debt limit could be a “must do” by the third quarter of 2027, in part because few in either party will want that vote in a presidential election year. A deal could also set the discretionary top line for fiscal years 2028 and 2029, heading off a sure fight in the next Congress.

There is a recent model. Eleven years ago this week, then-President Barack Obama signed the Bipartisan Budget Act of 2015 (BBA15). The Act suspended the debt limit past the 2016 presidential election and set spending levels for two years. It also made what then-Senate Majority Leader Mitch McConnell (R-KY) called the most significant Social Security reform since 1983. It did not solve Social Security’s long-term finances, but it gave the deal a lasting reform to point to. With the retirement trust fund projected to run short in late 2032, a similar first step could become a defining piece of any 2027 deal between congressional Democrats and President Trump.

For businesses, it does not matter whether your issues are the ones driving negotiations. These deals attract policies from all corners, often without the scrutiny of “regular order.” BBA15, for example, began paying new off-campus hospital outpatient departments lower “site-neutral” Medicare rates, a narrow change that remains a live fight more than a decade later. Businesses should be ready both to protect the policies that work for them and to advance those unlikely to move on their own. The time to plan and map strategies is now, before the window opens.

Congressional Investigations: Incoming Oversight Chair Says to "Lawyer Up"

When incoming Oversight Chair Robert Garcia (D-CA) said lawyer up, he put companies on notice that a wave of oversight is coming

Author: Giancarlo Pellegrini

The Trump administration has engaged heavily with private industry over the last two years, which means that many corporations and individual executives are now in possession of information that may be of interest to incoming Democratic chairs. Moreover, congressional committees are not obligated to negotiate with private companies in the way that they must do with the executive branch. These dynamics, along with a truncated calendar ahead of a presidential election, make private companies attractive targets for next year's congressional investigations.

One hurdle for investigators could be the issue of executive privilege. The extent to which the president and the White House instruct private companies to assert executive privilege in congressional investigations is unknown and could affect the pace at which investigations progress.



Who to watch

House

In a Democratic-controlled House, the first line of oversight is typically the Committee on Oversight and Reform, which will likely be chaired by Rep. Robert Garcia (D-CA). As Ranking Member, Rep. Garcia has prioritized many of the same issues that he has vowed to pursue if Democrats regain the majority:

- Allegations of pay-to-play between corporations and the Trump administration
- The financial interests of President Donald Trump and his family
- Alleged misconduct by the Department of Homeland Security (DHS) and Immigration and Customs Enforcement, with respect to both government contracting and individual incidents
- The Epstein investigation

The Committee on Oversight and Reform is unique among House committees because its jurisdiction is not limited to a specific policy area, making it the most important committee to watch.

Observers should also expect aggressive oversight activity from the Committee on the Judiciary and the Committee on Energy and Commerce. The Committee on the Judiciary is likely to be chaired by Rep. Jamie Raskin (D-MD). As a former constitutional law professor, and with jurisdiction over the Department of Justice (DOJ), Rep. Raskin can be expected to investigate legal issues, including alleged misconduct at DOJ.

Rep. Frank Pallone (D-NJ) is likely to chair the Committee on Energy and Commerce. Energy and Commerce is one of Capitol Hill's most powerful committees, and Rep. Pallone has already signaled that he plans to investigate a wide range of topics, including surveillance pricing, artificial intelligence (AI) and data centers, and dealings between drug makers and the Trump administration.

Other House committees that are not traditionally known for conducting investigations are also expected to join these efforts. Democrats on the House Committee on Natural Resources sent sweeping document requests to corporate sponsors and partners of President Trump's Freedom250 organization, which strongly signaled Ranking Member Jared Huffman's (D-CA) intent to conduct investigations next Congress. Rep. Huffman has also shown an interest in probing critical minerals companies that benefited from federal financing, as has Rep. Zoe Lofgren (D-CA), who is likely to chair the House Committee on Science, Space, and Technology.

The Department of Defense has been the subject of much discussion this Congress, and the House Committee on Armed Services, which will likely be chaired by Rep. Adam Smith (D-WA), is considering creating a new Oversight and Investigations Subcommittee. That subcommittee would likely investigate alleged improprieties in the department's procurement and contracting operations, as well as a range of other allegations related to Secretary Pete Hegseth's tenure.

Democrats on the House Committee on Ways and Means, which does not typically focus on investigative work, have said that they plan to probe alleged corruption related to the Trump administration's trade deals and examine the settlement of President Trump's US$10 billion lawsuit against the Internal Revenue Service (IRS), which reportedly restricted the IRS from pursuing audits involving previously filed tax returns of the president, his family and affiliated businesses. The Committee on Ways and Means will likely be chaired by Rep. Richard Neal (D-MA), who chaired the committee during the first Trump administration and was central to high-profile battles over the president's personal tax returns.

The Committee on Financial Services, whose chairmanship is not yet clear, will likely focus on the crypto industry and consumer protection, while the Committee on Homeland Security, likely to be chaired by Rep. Bennie Thompson (D-MS), will examine DHS-related topics, which will likely include a heavy focus on DHS contracting practices. Rep. Jim Himes (D-CT), who will likely chair the Permanent Select Committee on Intelligence (HPSCI), recently wrote a public letter warning that he plans to investigate defense companies' donations to the White House ballroom project, signaling that HPSCI may also conduct public-facing investigations.

Senate

In a Democratic-controlled Senate, the Permanent Subcommittee on Investigations (PSI), which has broad investigative authority and will likely be chaired by Sen. Richard Blumenthal (D-CT), is expected to be among the most active investigative bodies. As Ranking Member, Sen. Blumenthal has focused on corporate conduct, consumer protection and potential conflicts of interest involving the Trump administration.

Observers should also expect significant oversight activity from the Senate Homeland Security and Governmental Affairs Committee (HSGAC) and the Committee on the Judiciary. HSGAC Democrats have focused on federal agencies, government contracting and alleged misconduct at the DHS, while Judiciary Democrats have scrutinized the Department of Justice, the administration's use of executive authority and alleged abuses of government power.

The Senate Committee on Finance, which will likely be chaired by Sen. Ron Wyden (D-OR), is expected to focus on corporate tax practices, financial transparency and potential conflicts of interest involving the president and his family. Sen. Elizabeth Warren (D-MA), who could chair the Senate Committee on Banking, Housing, and Urban Affairs, has also been active in investigating the financial services industry, including cryptocurrency, private equity and consumer protection.

Voters Deliver a Mandate for Affordability

Authors: Jennifer Goedke, Jacob Hochberg, Caren Street

The 2026 midterm election results reemphasized a clear message coined by political strategist James Carville in 1992: "It's the economy, stupid." Rising healthcare expenses, housing costs, energy prices and tariffs dominated the debate, creating an opening for Democrats to campaign on an affordability agenda. Democrats now have a mandate to prioritize legislation that addresses these concerns and delivers economic relief well before the 2028 presidential cycle reaches a fever pitch.

Ahead of the election, House Democrats established affordability working groups to develop a legislative roadmap for the 120th Congress. Their recommendations are organized around an ambitious timetable – the first 100 hours, first 100 days and first year – and reflect an effort to prioritize issues that resonate with voters, produce tangible results and maintain cohesion across the Democratic caucus. While the recommendations do not constitute a final legislative agenda, they provide an early indication of where Democrats intend to focus their legislative efforts.

On healthcare, Democrats are expected to move quickly to reverse healthcare provisions enacted through H.R. 1, including Medicaid cuts and coverage restrictions, and permanently restore enhanced Affordable Care Act premium tax credits. Early priorities also include expanding Medicare benefits to cover dental, vision and hearing services; extending Medicare prescription drug price negotiations to privately insured Americans; and providing relief from medical debt. Over the first 100 days, Democrats may pursue more aggressive measures to address healthcare consolidation, pharmacy benefit manager practices, Medicare Advantage overpayments and private equity ownership of healthcare facilities. Additional proposals would strengthen rural hospitals and community health centers, expand the healthcare workforce, and improve access to preventive, maternal and mental healthcare. Longer-term priorities include exploring universal coverage models, expanding Medicare eligibility and accelerating access to breakthrough medical technologies. These proposals could have significant implications for insurers, pharmaceutical companies, hospital systems and other healthcare providers.

As to caregiving, Democrats have identified childcare, paid family and medical leave, and long-term care as major drivers of household financial insecurity and workforce participation challenges. Early proposals include expanding the Child Tax Credit, increasing childcare tax benefits and establishing a permanent national paid family and medical leave program. Democrats also intend to broaden Family and Medical Leave Act protections to cover more workers, including employees of smaller businesses and part-time workers. Longer-term proposals would expand childcare availability, particularly in rural communities and areas with limited access, while increasing investment in childcare facilities and the caregiving workforce.



On long-term care, Democrats are considering expanded Medicaid home- and community-based services, additional Medicare home health benefits and tax credits for family caregivers. These proposals could have significant implications for employers, particularly with respect to employee benefits and leave requirements.

Regarding housing, Democrats are expected to prioritize increasing housing supply, reducing construction costs and expanding access to affordable financing. Immediate proposals include fully funding existing federal housing initiatives, expanding the Low-Income Housing Tax Credit and private activity bond financing, and removing tariffs on construction materials. Democrats also intend to target algorithmic rent-setting practices and restore fair housing protections. Over the longer term, proposals would streamline permitting and regulatory requirements, encourage zoning reform and expand the use of vacant commercial buildings, public land and alternative construction methods, including modular and manufactured housing. Additional measures would expand down-payment assistance and tax credits for first-time homebuyers, support public-private investment in affordable and workforce housing, and strengthen protections for renters. These proposals could have significant implications for manufacturers, developers, financial institutions and private equity firms.

On the energy front, Democrats are expected to pursue immediate relief for households facing high electricity, natural gas and water bills while advancing longer-term grid modernization and consumer protection measures. Initial proposals include expanding federal utility assistance and weatherization programs, restoring clean energy tax credits and establishing a federal program to address residential utility debt. Democrats also intend to increase scrutiny of utility pricing practices, oil company profits and the growing costs associated with large electricity users, particularly data centers. Proposed legislation would require large energy consumers to bear a greater share of grid infrastructure costs rather than shifting those expenses to residential ratepayers. Longer-term priorities include expanding transmission capacity, investing in grid resilience and efficiency, reforming utility business models and accelerating energy infrastructure permitting. These proposals could have significant implications for utility companies, energy providers, and state and local governments.

With regard to groceries and consumer goods, Democrats are expected to focus on lowering the cost of groceries and everyday consumer goods by addressing tariffs, corporate pricing practices, supply chain disruptions and market concentration. Legislative priorities may include repealing or limiting tariffs on imported food, agricultural inputs and consumer products that increase costs for American households and businesses. Democrats may also pursue greater scrutiny of pricing practices and consolidation in the food and agriculture sectors, including meatpacking, grocery retail and food distribution, while strengthening antitrust enforcement and competition. These proposals could have significant implications for retailers, grocers, food processers and agriculture companies.

Democrats are expected to move quickly on this affordability agenda. However, electoral success does not guarantee legislative victories. Democrats can set the agenda, hold hearings and pass legislation through the House, but most major measures will require bipartisan support in the Senate and the president's signature. Expect Democrats to prioritize proposals that deliver visible economic benefits while forcing Republicans to take positions on politically sensitive affordability issues.

Before the election, President Donald Trump warned that he would become "Mr. Veto" if Democrats regained control of Congress. Whether that threat translates into sustained confrontation or selective deal-making will be one of the defining questions of the next two years. The political incentives for confrontation are considerable. Democrats will seek to demonstrate that their majorities can respond to voter concerns while holding the administration accountable for its economic policies, particularly those perceived as increasing consumer costs.

Nevertheless, areas of potential agreement exist. Housing supply, domestic manufacturing, infrastructure investment, permitting reform, workforce development and targeted measures to reduce consumer costs could attract bipartisan interest. President Trump has repeatedly emphasized his willingness to negotiate, and both parties have incentives to demonstrate results before 2028.

Even with affordability at the center of the Democratic agenda, events outside Washington DC's control could quickly reshape congressional priorities. International conflicts, trade disputes and supply chain disruptions could force Congress to address defense spending, foreign assistance, sanctions, energy security, supply chains and domestic manufacturing. Continued tariff disputes may intensify scrutiny of the administration's trade policies, particularly if higher costs or retaliation affect American consumers, manufacturers, agricultural producers and retailers.

Domestic economic conditions will be equally consequential. Persistent inflation, rising unemployment or financial market instability could increase pressure for additional economic relief and alter the scope and urgency of legislative negotiations. These developments could divert attention from Democratic priorities or reinforce the party's affordability message. Either way, affordability concerns will continue to be a central issue headed into 2028.

Political Realignment in the States

Authors: Taryn Frideres, Austin Harrison

Democrats flipped at least five gubernatorial seats to significantly change the balance of power among the nation's governors. Democratic governors – including the potential presidential candidates among them – will aggressively push back against President Donald Trump's executive actions and encourage Democrats in Congress to assist them in addressing affordability and consumer protection issues like healthcare, childcare, housing and energy costs. Their efforts are likely to include advocating for the reversal of some of the impacts to Medicaid funding from the Working Families Tax Cut Act. Unlike the federal government, states have balanced budget requirements, and across the country budgets are tight following the expiration of COVID-19-era funds, tax cuts, inflation and rising Medicaid costs. Governors of both parties will, therefore, be looking for politically expedient ways to cut costs and raise revenue. Look for governors of both parties to propose the removal of tax incentives for data centers, raise gaming and vice taxes, increase fees, pursue bonding and impose new taxes on technology companies. Particularly in states where the governor's mansion flipped from red to blue, governors will also likely energetically engage in issues around workforce, artificial intelligence (AI) and education. Democrats also flipped five attorney general offices, shifting the balance to 28 Democrats and 22 Republicans. Expect Democratic attorneys general to coalesce around coordinated legal challenges to President Trump's executive actions, alongside expanded enforcement efforts focused on affordability and consumer protection.

Trade Policy in Transition: Navigating the Post-Election Environment

Authors: Ludmilla Kasulke, Trevor Kellogg, David Stewart, Jeremy Dutra, Tyler Wood, Kara-Marie Urban

President Donald Trump's approach to trade and industrial policy has not only upended the Republican's free trade platform, but also completely restructured how the US approaches economic and industrial policy, and how it trades with allies and adversaries alike. While the Trump administration is expected to maintain an aggressive tariff agenda and to continue relying on existing executive authorities to impose new tariffs and expand existing measures, legal challenges have, and may further, focus how he wields those tools. More consequentially, a Democrat-led Congress may secure some Republican support for investigating – and potentially checking – the executive's tariff authorities.

In February 2026, the US Supreme Court overturned tariff actions founded in the International Emergency Economic Powers Act (IEEPA), forcing the administration to pivot to Section 301 of the Trade Act of 1974, as amended, to serve as the basis for wide-reaching baseline tariffs. Pending legal challenges to one of those Section 301 actions raises questions regarding the durability of even those tariffs, and the president's efforts to reduce trade deficits, raise revenue and incentivize supply chain shifts to the US. But sector-based tariffs imposed under Section 232 of the Trade Expansion Act of 1962, as amended, will likely remain in place. The administration is increasingly linking tariff relief to expanding US investments in the target sectors, deepening US independence in key supply chains. Further Section 232 actions are expected, though they will likely be more targeted in scope than some of the larger actions seen in the first two years of President Trump's second term.

Democratic control of the US Congress introduces greater political and legislative risks to the administration's tariff agenda. Congressional Democrats are expected to intensify oversight of tariff decisions, including how tariff exclusion decisions were made, company-specific agreements with the administration, business-to-consumer company refunds of reimbursed tariffs and bilateral trade negotiations and resulting investment commitments. And House Democratic Leader, and presumptive incoming Speaker of the House, Hakeem Jeffries (D-NY) has also said that the incoming majority will seek legislation to "stop" tariffs that are raising costs for US consumers.

But a broad rollback of existing tariffs remains unlikely. Divisions among Democratic constituencies over certain tariff frameworks could complicate efforts to develop a unified legislative approach, while President Trump would likely veto sweeping restrictions on his tariff authority. Nevertheless, Democratic gains have narrowed the margin needed to override a presidential veto, increasing the likelihood that narrowly targeted legislation could advance with sufficient Republican support.



Tariffs that impose particularly visible costs on US businesses and consumers, including tariffs on Canada and ongoing sectoral tariffs on steel/aluminum and autos in North America, may be especially vulnerable to bipartisan challenges. Any meaningful tariff relief is more likely to be selective, focused on measures that generate substantial economic or political opposition.

One potential area of bipartisan cooperation is the US approach to trade negotiations with Canada and Mexico. The administration is pursuing separate bilateral negotiations with each country to address distinct trade irritants, while the ongoing US-Mexico-Canada Agreement (USMCA) joint review process provides an additional avenue for congressional engagement. Bipartisan lawmakers will likely seek to preserve the special trade relationships with our North American partners, though bipartisan lawmakers are seeking resolution of key issues as part of the ongoing USMCA review process, including related to dairy trade with Canada, energy and investment policies in Mexico, seasonal produce and third-country inputs benefiting from the pact's preferential tariffs.

Sen. Ron Wyden (D-OR), incoming chair of the Senate Committee on Finance, said he would also seek to "hold trade cheats accountable," another area of potential cooperation with the Trump administration. The Department of Justice (DOJ)/ Department of Homeland Security Trade Fraud Task Force, launched in August 2025, announced in July that it passed US$1 billion in recoveries, penalties, forfeitures and charged losses in less than a year. This Trade Fraud Task Force is now a permanent part of DOJ's National Fraud Enforcement Division, alongside a new section dedicated to criminal trade fraud. DOJ published a Resource Guide to Trade Fraud Enforcement setting out its expectations, and task force leadership described a "decisive shift" toward criminal prosecution, including of individual executives.

Identifying and punishing bad actors, as well as revising customs laws and regulations to close enforcement loopholes and gaps, could be areas for bipartisan cooperation. And regardless of congressional action, importers should treat undervaluation, misclassification, false origin claims and transshipment as live criminal and False Claims Act risks, not just civil penalty exposure. They should also weigh the declination credit DOJ now offers for voluntary self-disclosure, cooperation and remediation.

More broadly, it remains unclear how trading partners will adjust their negotiating strategies in response to Democratic control of Congress. Although the incoming Democratic majority is expected to increase scrutiny of the administration's trade policies and could seek to constrain certain tariff measures, the administration will retain substantial unilateral executive authority to impose, modify or remove country-specific tariffs under Section 232 and potentially Section 301, subject to applicable statutory requirements. As a result, trading partners will likely continue to view the administration as the primary negotiating counterpart, even as they are watching to see whether and how Congress may change the rules of the road.

On foreign direct investment, it is plausible that Democratic committees could look to examine whether and how the Committee on Foreign Investment in the United States (CFIUS) reviewed certain acquisitions during the first half of the administration as part of an overall effort to investigate deals and pay-to-play or insider maneuvering.

From Ballots to Barrels: The Future of US Energy and Natural Resources Policy

Authors: David LesStrang, Adam Suess, Peter Robertson, Jacob Hochberg

Democratic majorities in the House and Senate will have a significant impact on federal energy and natural resources policy during the final two years of the Trump administration. While President Donald Trump will retain considerable authority through the executive branch, unified control of Congress provides Democrats with opportunities to challenge the administration's regulatory agenda, influence both policy and federal spending, and conduct aggressive oversight of federal agency decisions and project approvals.

Oversight and investigations

A central theme of the 120th Congress will be intense Democratic oversight of the Trump administration's energy and natural resource actions. Democratic committee chairs will aggressively examine, among other concerns, critical mineral deals, offshore wind and fossil fuel agreements, high gas prices and the energy impacts of artificial intelligence (AI) data centers. Democrats will accelerate these efforts in early 2027 through the issuance of subpoenas to secure information from Cabinet members and administration officials, oil company executives and other energy stakeholders.

The House Committee on Energy and Commerce is expected to lead aggressive congressional oversight over high energy use and power consumption by data centers, which was a primary concern of voters in the recent midterm elections. Rep. Frank Pallone (D-NJ), who previously served as committee chairman from 2019 to 2023, is expected to retain the gavel in 2027. Citing rising utility costs on consumers amid other concerns, Rep. Pallone has called for a temporary nationwide moratorium on new data center construction and has vowed to prioritize placing federal restrictions on the expansion of AI data centers. As the committee's current top-ranking Democrat, Rep. Pallone has previewed his future actions as committee chairman by requesting that leading technology companies provide internal data addressing data center projects' energy use, as well as communications with federal officials. These demands will be made under congressional subpoena next year.

Further, congressional Democrats are expected to launch a series of coordinated probes into Trump administration energy sector actions. The administration has invested billions of dollars to address supply chain shortages of critical minerals dominated by China, with the federal government assuming an equity stake in more than a dozen companies. Multiple House and Senate committees will investigate domestic and international mining and critical mineral deals brokered by the administration as Democrats raise concerns about potential conflicts of interest and charge the Trump family and administration officials with benefiting from these agreements.



Democratic oversight will also include an examination of the Trump administration's actions relating to foreign governments. High gasoline and diesel prices, which proved to be a pivotal factor to voters in the midterms, provide Democrats with an opportunity to focus on the effects of US military action against Iran. Bipartisan concerns have been raised about the Trump administration's decision in October to bypass the Ending Importation of Russian Oil Act (Public Law 117-109), approved by Congress in 2022, which codified a complete ban on importing Russian-origin crude oil, petroleum and petroleum products. Democrats will likely seize upon the president's decision to allow imports of Russian diesel to drive a wedge between the White House and congressional Republicans who have largely defended the president's actions.

House and Senate inquiries are also expected regarding profits secured by major oil and gas companies since the onset of the US military conflict with Iran. The House Committee on Oversight and Reform may also escalate its scrutiny of the departments of Treasury, State and Energy regarding the Trump administration's management of Venezuelan oil revenue.

Environmental policy has always been the opposite side of the coin of energy policy. They are inextricably intertwined. The House Committee on Energy and Commerce and the Senate Committee on Environment and Public Works are expected to investigate and hold hearings on many of the Trump administration's environmental actions. The Trump administration has sought to essentially vitiate the government's ability to regulate greenhouse gases through multiple actions, including efforts to reverse the so-called Endangerment Finding under the Clean Air Act, eliminate waivers for California to implement its own Clean Air standards, and target specific industries by reversing course on efforts to regulate methane emissions by the oil and gas industry.

Oversight of federal policy and appropriations

Unified Democratic control of Congress will provide substantial opportunities to influence both energy and natural resource policy and federal funding. Government agencies with oversight of, and responsibility for, implementation of environmental laws, as well as leasing of federal lands for mineral, oil and gas exploration and development, will undergo significant scrutiny by both authorizing and appropriations committees in the House and Senate. These include the Department of the Interior, Environmental Protection Agency, Department of Energy, Bureau of Land Management and National Park Service.

The House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources will likely prioritize expanding support for renewable energy (solar, wind, geothermal and hydropower). Authorizers may consider legislation to restore or extend clean energy tax incentives, support domestic manufacturing of clean energy technologies and expand financing opportunities for renewable energy projects.

Further, Democrats will utilize the "power of the purse" through the federal appropriations process to limit or prohibit Trump administration activities and policies it opposes. However, given that bipartisan support is essential to approving annual funding bills, efforts to curtail the administration's efforts may be limited.

Federal permitting reform

The bipartisan leadership of the Senate Committees on Energy and Natural Resources and Environment and Public Works reached a negotiated agreement on permitting reform legislation, the Bipartisan American Affordability and Jobs Act of 2026 (S.B. 5653), in late September. While this compromise represents a significant step toward congressional approval, it does not necessarily guarantee passage before the 119th Congress adjourns in December. A number of legislative and political obstacles remain.

Senate consideration of the bill is expected to begin next week, with a key procedural vote slated for November 9. If the Senate moves promptly, the bill could advance through both legislative bodies during the upcoming lame-duck session. Democratic support is critical, as the legislation requires 60 votes in the Senate to overcome a filibuster. However, the legislative calendar, including must-pass legislation competing for valuable floor time (the National Defense Authorization Act (NDAA), government funding, etc.), could become an obstacle in both chambers.

The 417-page bipartisan Senate bill is broad and comprehensive in scope, resulting in key policy wins for both parties. The legislation addresses several long-standing Democratic concerns, including transmission infrastructure and approval of clean energy (wind and solar) projects. The bill also addresses Republican priorities, including narrowing the scope of environmental reviews under the National Environmental Policy Act (NEPA) and expedited approvals for domestic mining, manufacturing and energy infrastructure projects. Should the Senate approve the measure, the House, which passed its own permitting reform bill in December 2025, will have to decide between adopting the Senate version or pushing for additional changes, which could ultimately prevent final approval this year.

The posture of the Trump administration will also be a significant factor in the final outcome of the bill. The White House has expressed its support for permitting reform, but its historical opposition to wind and solar development has created tension with Democrats whose support is necessary to get the agreement over the finish line. Democrats will insist upon the Trump administration allowing wind and solar projects to proceed under the terms of the negotiated agreement. White House approval of previously stalled projects in recent weeks signals a desire to see the package move forward.

A central question emerging from the midterm elections is whether congressional Democrats want to preserve the fragile compromise presently in place or use their newly acquired political leverage to seek a better deal next year when they control House and Senate majorities. Both Sens. Sheldon Whitehouse (D-RI) and Martin Heinrich (D-NM) believe the lame-duck session is the appropriate time to approve the agreement, even as they continue to seek assurances from the Trump administration over the future of renewable energy projects. Rep. Jared Huffman (D-CA), who is in line to become chairman of the House Committee on Natural Resources next year, takes a contrary view, arguing that an agreement placing greater emphasis on Democratic priorities can be achieved during the next Congress. However, even if Democrats were able to advance a revised permitting reform package through both chambers in 2027, the legislation would need to include sufficient GOP priorities to secure 60 Senate votes to override a filibuster, as well as the president's signature.

Additional opportunities for bipartisanship

While the Trump administration and Democratic Congress will largely be at odds over energy and natural resource policy and funding over the next two years, divided government often provides opportunities for bipartisanship. The most likely openings for legislative consensus include finding common ground addressing renewable energy, electric grid modernization, critical minerals and federal conservation policy. The Senate filibuster and presidential veto will prevent Democrats from making their most desired significant energy and natural resource policy changes. However, with majority control of the House and Senate, Democrats will seek opportunities to advance their party's goals and priorities while drawing distinctions with Republicans going into the 2028 election cycle.

Rewiring Policy: What the Election Means for Artificial Intelligence (AI) and Technology

Authors: Pablo Carrillo, Bradford Ellison, Dominic Braithwaite

Democratic control of Congress will shift the AI policy debate away from the Trump administration's deregulatory agenda toward a risk-based approach emphasizing accountability for AI's economic, consumer and public safety impacts. Democrats are likely to pursue two complementary objectives: stronger safeguards governing the development of advanced AI models and greater scrutiny of how businesses deploy AI in activities already subject to consumer protection and other laws. These priorities will create new oversight risks for businesses, even where legislative proposals face presidential opposition.

Moreover, Democrats will likely integrate AI policy into their broader affordability agenda, focusing on whether companies use AI to increase prices, discriminate against consumers or circumvent existing legal protections. Recent Democratic investigations into AI-assisted pricing in grocery retail, airlines and other consumer-facing industries provide a foundation for expanded congressional oversight. Concerns about personalized pricing have also attracted Republican attention, potentially creating opportunities for bipartisan legislation addressing transparency and the use of consumer data. Companies employing automated pricing systems should anticipate questions about their algorithms, data practices and pricing decisions.

Financial services will be another priority. In July, Rep. Maxine Waters (D-CA), the leading Democrat on the House Committee on Financial Services, launched an inquiry into AI risks, existing regulatory authorities and potential legislative gaps in financial services. Democrats will likely examine automated decisions in lending, housing finance, banking and securities markets, particularly where AI systems produce discriminatory outcomes without explicit discriminatory intent. They are also likely to challenge the administration's efforts to curtail enforcement of disparate-impact liability under existing civil rights laws and will likely seek to clarify the respective responsibilities of businesses deploying AI and third-party technology providers.

Transparency will feature prominently in these efforts. Democrats may propose additional disclosures when AI materially influences consequential decisions, along with mechanisms allowing consumers to understand and challenge adverse outcomes. Such proposals would build on existing requirements, including federal credit laws requiring creditors to explain adverse decisions regardless of whether AI was involved.



Democrats will also pursue stronger oversight of advanced AI models. Sen. Maria Cantwell's (D-WA) October governance framework, which has not yet been introduced as legislation, calls for enforceable federal safety standards, independent testing and audits, reporting of serious incidents and safeguards against catastrophic risks. The bipartisan FRONTIER Act (H.R. 9925) likewise proposes tiered requirements for frontier AI developers, including risk management, independent assessments and incident reporting.

These initiatives reflect growing concern about increasingly capable AI systems, particularly autonomous agents capable of taking unintended actions or operating beyond established safeguards. In October, Democratic committee leaders requested that five leading AI developers report serious safety incidents, providing a foundation for further investigations and potential legislation. Although comprehensive AI regulation will face significant obstacles, narrower measures addressing frontier-model safety could attract bipartisan support.

An important issue will be whether Congress can establish uniform federal standards for frontier AI development while preserving state authority over commercial applications. The FRONTIER Act would preempt certain state requirements imposed on AI developers while generally preserving state authority to regulate AI use and deployment. This distinction could facilitate agreement on national frontier-model standards without resolving broader disagreements over state consumer protection and other AI laws. For leading developers, the consequences could include new testing, independent assessment, disclosure and risk-management obligations.

Democratic control could also change how Congress organizes its AI-related work. Reps. Bill Foster (D-IL) and Ted Lieu (D-CA) have advocated a bipartisan House Select Committee on AI, while Sen. Ruben Gallego (D-AZ) has introduced a resolution proposing a Senate counterpart with subpoena and investigative powers, as well as authority to consider legislation referred to it without displacing existing committee jurisdictions. Sen. Ben Ray Luján (D-NM) has separately advocated a Senate select committee. Neither proposal is assured of adoption, but such committees could become important forums for coordinating legislation, conducting industry investigations and engaging technology companies.

For businesses, the immediate consequence will be greater scrutiny of both AI development and deployment. Companies in regulated industries should assess whether their AI applications comply with existing legal requirements, while frontier developers should prepare for closer examination of safety testing and risk management. Congressional investigations can proceed without new legislation and may generate commercial, reputational and litigation risks even as the administration continues to favor a lighter regulatory approach.

Technology

Data center expansion, energy affordability and cybersecurity will be prominent priorities for the Democratic majorities. These issues will bring congressional concerns about household costs and infrastructure security into sharper focus while creating potential opportunities for bipartisan cooperation with an administration committed to accelerating AI development and US technological competitiveness.

Data centers will likely become a political focal point as Democrats examine whether rapidly growing electricity demand is increasing costs for households and other businesses. Although some lawmakers may advocate restrictions on new developments, measures addressing electricity costs have attracted bipartisan interest.

In September, the House approved the Ratepayer Protection Act (H.R. 9340) by a vote of 417–3. The legislation would require state utility regulators to consider standards for recovering incremental infrastructure costs attributable to large electricity customers, including major data centers. However, the bill subsequently encountered Senate Democratic opposition over its lack of binding cost-allocation requirements. Democratic control may, therefore, produce renewed efforts to require data centers to bear more of the infrastructure costs associated with their electricity demand, although the appropriate federal role remains contested.

The debate could also encourage bipartisan support for nuclear energy, grid modernization and additional electricity generation needed to accommodate growing demand. For developers, utilities and investors, the consequences may include closer scrutiny of power supply arrangements, infrastructure financing and costs passed on to existing customers. Projects that can demonstrate reliable energy supplies without shifting additional costs onto households will be better positioned politically and commercially.

Cybersecurity will remain an important area of bipartisan interest, particularly as increasingly autonomous AI systems are integrated into business operations and critical infrastructure. Democratic committees are likely to examine whether existing requirements adequately address unauthorized access to sensitive information, disruption of essential services and failures of human oversight. For companies deploying autonomous systems, congressional attention could increase expectations for operational safeguards, incident response, independent testing and accountability when automated systems cause harm.

Post-quantum cybersecurity will likewise remain a bipartisan implementation priority. Following the Trump administration's June executive order accelerating federal migration to quantum-resistant cryptography, congressional attention may focus on agency readiness, implementation deadlines, and protection of sensitive government and critical infrastructure systems.

Democratic majorities will have greater power to investigate technology companies and challenge administration policies than to enact comprehensive regulation over presidential opposition. Nevertheless, targeted bipartisan legislation on frontier AI safety, consumer protections, data center electricity costs and cybersecurity remains possible. For business leaders, the immediate challenge will be navigating increased congressional oversight alongside existing legal obligations and potentially new requirements governing advanced AI systems. Companies should prepare to demonstrate effective governance, explain consequential AI-assisted decisions and substantiate their safety and risk-management practices.

SQUIRE PATTON BOGGS

Local Connections. Global Influence.